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Extreme idealistic sovereignty is German in origin and tends to justify State absolutism which had been the traditional policy of Prussia and the gospel of Hegel, who was a Prussian. This theory found its echoes later in the totalitarianism of the Nazis and the Fascists. Then, some of the thinkers were exploring the abstract nature of sovereignty and have, as Bryce remarks, been engaged in barren discussions dragging us through “ a dusty desert of words rather than of substance.” Others have frequently done so, as MacIver says, with an ulterior motive “ to get a speculative basis for a practical propaganda.” There is a second confusion between legal theory and political practice. The legal theory of sovereignty vests ultimate legal power in some definite person or body of persons. The authority of the sovereign is supreme and it possesses the power to enforce obedience to its will. But where is that ultimate authority to be found? There is not one single answer to this question.

Not only does it vary from country to country, but it will not be always the same in the same country. In Britain, Parliament is sovereign and what it enacts is law. An Act of Parliament cannot be called into question in any court of law. Nor can it be declared invalid, for no law exists in Britain higher than that made by Parliament. But a recent Act of Parliament takes precedence over a less recent one and supersedes any earlier statutory provisions inconsistent with it. In the United States, Congress is not sovereign. It is a delegated agency and its acts can be pronounced unconstitutional by the Supreme Court. It is the Constitution which is supreme there and the sovereign power is exercised by the constitution-amending authority.

In a totalitarian State sovereignty will belong to the executive, since both legislative and judicial powers are subservient to it. Hitler retained the Reichstag as a subservient organ whose function was merely to record a formal approval of Nazi policy. And no Court in Germany could question the legality of the policy endorsed by the Reichstag. The legal sovereign, in all democracies, must ultimately bow to the political sovereign. But what is this political sovereignty and where is such a sovereign? The problem of the real location of political sovereignty has not yet been solved. Finally, there is the confusion between the actual authority and its source.

“ It is one thing to say,” writes Soltau, “ that all authority comes from the people and another to say that the people actually govern.” This they obviously cannot do; government is the action of the few. And when Rousseau said that the people actually govern, he introduced in their governance that mystic element of General Will which made it possible for his disciples to justify the omni competent and omnipotent State where sovereignty rested in the hands of a small number of men who make up the government.

Because of these confusions and the unreality of the elaborate justification of the omniscient and omnipotent State, Laski and others have suggested that the theory of sovereignty should be kept out of political discussions. But dropping of sovereignty it does not simplify matters. It is impossible to drop it, because it exists and since it exists we cannot avoid controversy. Indeed, one of the most effective means of getting to know the character of any system of government is to find out where sovereignty can actually be

located and how it is really exercised. To know it is to know the different forms in which sovereignty is expressed.